

**MEETING OF THE BOARD FOR PROFESSIONAL  
ENGINEERS AND LAND SURVEYORS**

**Hyatt Vineyard Creek Hotel & Spa  
170 Railroad Street  
Santa Rosa, California 95401  
(707) 636-7166**

**Thursday, May 8, 2008**

**Board Members Present:** Richard Lyons, President; Patrick Tami, Vice President; Kim Blackseth; Arthur Duffy; James Foley; Mike Modugno; Ray Satorre; Jerry Silva; and Michael Trujillo.

**Board Members Absent:** Gregg Brandow and Robert Jones

**Board Staff Present:** Cindi Christenson (Executive Officer); Nancy Eissler (Enforcement Program Manager); Cindy Fernandez (Executive Analyst); Joanne Arnold (Assistant Executive Officer); Mike Donelson (Sr. Staff Engineer); Debbie Thompson (Budget Analyst); and Gary Duke (Legal Counsel).

**1. Roll Call to Establish a Quorum**

The meeting was called to order by President Lyons at 9:05 a.m. Roll call was taken, and there was a quorum.

President Lyons reported that there is going to be a Strategic Planning meeting in the morning, and then if there is time in the afternoon, the Board meeting will begin.

President Lyons introduced, Cindy Kanemoto, Donna Luallin, and Kristine Grangaard, from DCA who will be assisting with the Strategic Planning Session.

**2. Public Comment**

There was no public comment.

**3. Strategic Planning Session**

Ms. Kanemoto, Ms. Luallin, and Ms. Grangaard from DCA facilitated the Strategic Planning Session.

A report will be provided at the next Board meeting.

**4. Early Admission Process to the PE and PLS Examinations (Possible Action)**

Ms. Christenson reported that there has been positive feedback from DCA. The DCA Communications Office has developed a Press Release regarding the Board's proposal.

Ms. Christenson reported that initial feedback from CELSOC was that they are not in favor of this proposal; therefore, it cannot be included in an omnibus bill. However, with the support of the Administration, through DCA, staff can work on seeking an author to carry the legislation if the Board still wishes to move forward with it.

**MOTION:** Mr. Foley/Vice President Tami moved to move forward with the Early Admission Process proposal, including issuing the press release and seeking an author for the legislation.

**VOTE:** 8-0, Motion carried. Mr. Trujillo not present for the vote.

**5. Geotechnical Engineer Examination Test Plan Review to Accommodate the New California Building Code (Possible Action)**

Ms. Christenson reported that in 2001, the Board approved a test plan for the Geotechnical Engineer Examination (GEE). The initial use of the test plan was for the October 2002 examination. The test plan continues to be used for the GEE until it will be updated in the next two years.

The current test plan was developed when the Board was using the 2001 California Building Code which is based on the 1997 Uniform Building Code (UCB) as adopted by California. In July 2007, California adopted the 2007 California Building Code which is based on the 2006 International Building Code. This Code change was effective January 1, 2008 in California. The Board will be using the new Code for the GEE beginning with the October 2008 administration.

The Board had a meeting with Subject Matter Experts (SMEs) to review the new code and the current test plan to see if any changes were necessary in light of the new code and also to review the current item bank. The SMEs found no revisions were necessary based on the new code. Since this meeting, there was an exam development meeting and the SMEs confirmed that no revisions appeared necessary.

**6. Approval of Delinquent Reinstatements (Possible Action)**

**MOTION:** Mr. Foley/Vice President Tami moved to approve the Delinquent Reinstatements as follows:

**CHEMICAL**

**MICHAEL CROSON**

Reinstate applicant's chemical license once he/she takes and passes the Board's Laws and Regulations Examination.

**ELECTRICAL**

**WILLIAM STANICK**

Reinstate applicant's electrical license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

**MECHANICAL**

**GREG HARDY**

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

**VOTE:** 9-0, motion carried.

**7. Comity and Temporary Authorization Applications (Possible Action)**

**MOTION:** Mr. Satorre/Mr. Blackseth moved to approve the Handout Comity List.

**VOTE:** 9-0, motion carried.

**8. Administration**

**a. Fund Condition**

Ms. Thompson reported on changes included in the Board's fund condition dated April 25, 2008. Revenue projections have been updated in the fund condition. Revenue received through March 31, 2008 was \$9,882,000 which is \$1,435,000 more than the amount received for March of the prior FY. This is a normal pattern as every other year license fee renewal revenue peaks above the previous FY and this is a peak year.

**b. Fiscal Year 2007-08 & FY 2008-09 Budgets**

Ms. Thompson reported that the Board currently projects to spend \$9,148,992 of its \$9,178,473 FY 2007-08 budget. This will leave a projected \$29,481 surplus after expenses. The Board's FY 2008-09 budget proposes an increase of \$258,000 mostly for DCA related prorata expenses and a 2.4% operating expense increase. These increases aren't effective until the Governor signs the 2008 Budget Act. Ms. Thompson will provide further details at the July Board meeting if the Budget Act is signed.

**c. Fiscal Year 2008-09 & FY 2009-10 Budget Change Proposals**

Ms. Thompson reported that the Board's BCP for FY 2008-09 was approved upon consent at both the Assembly and Senate Budget Hearing. This BCP will redirect the Land Surveyor contract funding to create a permanent, full-time state civil service Land Surveyor position.

For FY 2009-10, the following BCP Concepts were submitted:

- 1) NCEES Administration of the Board's Exams
- 2) NCEES National Exam Population Increase
- 3) Expert Witness Hourly Rate Increase
- 4) Lease Space Increase

**d. Land Surveyor Position Redirection**

This proposal will revise the existing Senior Engineer Registrar (SER) State Personnel Board classification definition so that the Board can use this classification to hire a California Licensed Land Surveyor to perform registrar responsibilities for the Board's Land Surveyor Program. This proposal will work in conjunction with the FY 2008-09 BCP identified earlier. The proposal is currently with DCA for review.

**e. Publications Review**

Ms. Eissler reported that the Board is now updating the Guide to Engineering and Land Surveying for Local Officials, the Technical Experts Manual, and the Board's Law Publication.

**f. NCEES Exam Application Fee Increase**

Ms. Thompson reported that the Board's fund reserve is projected to fall below a 3-month level in FY 2012-2013 as a consequence of expenses exceeding the projected incoming revenue in FY 2010-2011. A fee increase will not be needed if the Board is able to generate additional revenue in the event legislative approval is obtained for the early PE exam admissions program. The Board may need to initiate regulations within the next 2-3 fiscal years to ensure an adequate fund reserve is maintained for unexpected expenses.

**g. Applicant Direct Payment of National Exam Fees to NCEES**

Ms. Christenson reported that the Board is continuing to discuss alternative methods for NCEES to administer California's exams for the October 2009 exam administration. Since the requirement that applicants pay directly to NCEES would result in a significant applicant fee increase, alternate methods are now being explored by Board staff for NCEES to administer the Board's exams. Ms. Christenson indicated that instead of requiring applicants pay their exam fees directly to NCEES, the most feasible alternative may be instead to contract with NCEES for the exam administration and continue receiving exam applicant full payment

at the Board. With this alternative, the same obstacles must be overcome regarding NCEES' requirement that qualified candidates be registered 7 weeks earlier than the Board's application deadline.

Board staff is looking into minor legislative changes that could counter the negative effects of an early registration deadline that is prior to graduation dates. One idea is to allow early admission for PE exams before the required 2 years work experience is obtained. Ms. Thompson reported that the early PE exam admission has been a success in Nevada and New Mexico because it shortens the amount of time needed to meet license requirements and the exam pass rates have also increased.

## **9. Enforcement**

Ms. Eissler reported that a postcard was sent to all licensees at the beginning of April letting them know about the Board's new website address and updates to the laws, including the Reporting of Legal Actions Program, as well as other information available on the website. She advised that the response to the postcard has been very positive; the Enforcement Unit has received many phone calls in response, and many licensees have submitted information to be independent Technical Experts.

Ms. Eissler provided an update on the Enforcement statistics through April. She advised that 60 cases were opened in April, bringing the fiscal year total to 354, and 40 cases were closed in April, bringing the fiscal year total to 508; there are 482 cases pending, with a mean age of 486 and a median age of 367 and 245 over one year old.

The Board congratulated the Enforcement Unit on its continuing efforts to reduce the backlog of old cases.

## **10. Legislative**

### **a. Discussion of Proposed Legislation for 2008, including, but not limited to, AB 2423, AB 2427, AB 2603, AB 2793, SB 963, SB 1312, and SB 1494 (Possible Action)**

Mr. Duffy reported on the information contained in the Agenda.

**MOTION:** Mr. Duffy/Mr. Foley moved to support AB 2427. This bill would make it unlawful for a city or county to prohibit a person or a group of persons licensed by the Department of Consumer Affairs from engaging in any act or series of acts that fall within the statutory or regulatory definition of that business, occupation, or profession.

**VOTE:** 9-0, motion carried.

**MOTION:** Mr. Duffy/Mr. Foley moved to watch AB 2603. This bill would require state agencies to prepare an annual report regarding personal services and consulting services contracts entered into by the agency and to transmit that report to the Department of Finance for submission to Legislature.

**VOTE:** 9-0, motion carried.

**MOTION:** Mr. Duffy/Mr. Foley moved to Oppose unless Amended SB 1312. This bill would eliminate the California Architects Board and instead establish the California Architects and Registered Interior Designers Board. It would provide for the registration and regulation by the board of persons that engage in the practice of interior design.

**VOTE:** 9-0, motion carried.

**MOTION:** Mr. Duffy/Vice President Tami moved to watch SB 1494. This bill would require each state department and agency to develop and operate a Web site accessible by the public that includes specified information relating to expenditures of state funds, defined to include, among other things, grants, contracts, subcontracts, purchase orders, and tax refunds, rebates, and credits.

**VOTE:** 9-0, motion carried.

**b. Regulation Status Report**

Mr. Duffy stated that there have been no changes.

**11. Technical Advisory Committee TAC Reports**

**a. Board Assignments to TACs (Possible Action)**

There were no Board assignments.

**b. Appointment of TAC Members (Possible Action)**

**MOTION:** Vice President Tami/Mr. Foley moved to appoint and reappoint members to the Land Surveying Technical Advisory Committee (LSTAC), as follows:

Reappoint Michael B. Emmons, P.L.S., and Michael S. Butcher, P.L.S., to a second term expiring on June 30, 2009.

Reappoint Thomas A. Taylor, P.L.S., to a second term expiring on June 30, 2010.

Appoint Paul J. Enneking, P.L.S., to a first term expiring on June 30, 2010.

**VOTE:** 9-0, motion carried.

**c. April 25, 2008, LSTAC Meeting (Possible Action)**

**1. Log Book for Recording Land Surveyor Applicants' Experience**

Vice President Tami reported on this agenda item.

**MOTION:** Vice President Tami/Mr. Duffy moved to move forward with the development of a Log Book for Recording Land Surveyor Applicants' Experience as an optional supplement to a revised Engagement Record and Reference Form. The Board directed staff to work with Legal Counsel to develop the required forms and determine what statutory and regulatory changes may be needed and to then present recommendations to the Board.

**VOTE:** 9-0, motion carried.

**12. Liaison Reports (Possible Action)**

**a. ABET**

No report given.

**b. NCEES**

Ms. Christenson reported on the items that would be discussed at the upcoming Western Zone meeting. She advised that the most controversial issues would be the implementation of BS Plus 30 and a feasibility study of computer based testing. She reported that Vice President Tami would be representing the Board at the meeting. She also advised that Vice President Tami was running for Western Zone Vice President.

Mr. Duffy thanked Vice President Tami for his interest and willingness to take such an active roll with NCEES.

Board President Lyons directed Vice President Tami to vote on behalf of the California Board on issues raised at the Western Zone meeting in keeping with the previous votes and policy decisions of the Board.

**1. Merger of the NCEES Constitution and By-Laws**

Ms. Christenson advised that NCEES is proposing to merge its Constitution and By-Laws into one document. Mr. Foley explained that this was due to changes in South Carolina corporation law, where NCEES is incorporated.

**c. Technical and Professional Societies**

No report given.

**13. President's Report**

President Lyons appointed Dr. Brandow and Mr. Blackseth to the Nominating Committee for President and Vice President of the Board. President Lyons also read from the Board's Operating Procedures regarding the procedures for electing the President and Vice President and reminded all Board members that nominations could be made from the floor.

President Lyons requested that staff provide further information regarding the Reporting of Legal Actions Program. Ms. Eissler advised the Board that the program has been operative since January 1, 2008, because the Board was given funding authority for it. She explained that the reporting form is available on the Board's website, as well as a summary of the requirements and the actual laws. She advised that the initial goal is education and compliance to make sure that all licensees are aware of the reporting requirements. She stated that the Enforcement Unit has received many inquiries about the program, as well as a few reports. She explained that staff reviews the reports to decide if a formal complaint investigation case should be opened, just as with any complaint received. She advised that disciplinary action would not be pursued based solely on the report and that a full and complete investigation would have to be conducted before any decision regarding disciplinary action could be made. She also advised that the information contained in the reports is not subject to disclosure under the Public Records Act; therefore, the information that licensees report will not be disclosed unless a full investigation leads to disciplinary action, just as with any other complaint investigation case. She also recommended that if anyone had specific questions about the program or the laws, it would be beneficial if they would submit those questions in writing so that staff and Mr. Duke could review them and provide a complete response, which could also be included on the Board's website.

**14. Executive Officer's Report**

**1. Administration Report**

**a. Executive Summary Report**

No additional report given.

**2. Personnel**

**a. New Hires**

Ms. Christenson reported that Julie Ayres has been hired as the Board receptionist.

**b. Vacancies**

Ms. Christenson reported that Board is fully staffed at this time.

**3. Enforcement/Examination/Licensing**

**a. College Outreach**

Ms. Christenson reported that Ms. Christ and Ms. Hirano are conducting College Outreach programs. Most recently they held them at Chico and San Jose State Universities.

**b. Report on Enforcement Activities**

Ms. Christenson noted that the statistics for the new Reporting of Legal Actions Program were included in the agenda packet and would be included with the Enforcement statistics in the future.

**c. Report on Examination Activities – October examinations**

Ms. Christenson reported that the staff is doing very well in administering the examinations.

Vice President Tami stated that he attended the exam administration in Visalia and thanked staff for good job they do in administering the examinations.

**4. Publications/Website**

**a. Website Activity Statistics**

No additional report given.

**5. Other –  
DCA Update**

Ms. Christenson stated that DCA has been very helpful with Public Relations.

**15. Other Items Not Requiring Board Action**

**Date of Next Board Meeting: July 24 & 25, 2008, TBD.**

Ms. Christenson reported that DCA will be holding a Professionals Achieving Consumer Trust Summit November 17-21, 2008, where all the boards will be meeting at the same location. Ms. Christenson stated that we will be holding our Board meeting in conjunction with the Summit meeting, and she will provide the Board with the exact date once DCA has finalized the schedule.

Ms. Christenson reported that our next Board meeting will be held July 31, 2008, in Sacramento.

16. **Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), and 11126 (e)(1)]**
- a. **Michael William Foster v. Board for Professional Engineers and Land Surveyors, Court of Appeal Third Appellate District Case No. C050630 (El Dorado Superior Court Case No. PC 20030492)**
  - b. **Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996)**

17. **Open Session to Announce the Results of Closed Session**

Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically: Michael William Foster v. Board for Professional Engineers and Land Surveyors, Court of Appeal Third Appellate District Case No. C050630 (El Dorado Superior Court Case No. PC 20030492); and Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996)

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the examinations and to allow retroactive licensure to the candidates who were left off of the last agenda due to a clerical oversight.

Ms. Christenson reported that the Appeal Results for the October 2007 Geotechnical Engineering Examination and the October 2007 California Structural Engineering Seismic Examination were approved.

Ms. Christenson reported that the Board adopted the Proposed Decision regarding Jonathan Sagherian.

18. **Approval of Consent Items (Possible Action)**  
(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)
- a. **Approval of the Minutes of the March 14, 2008, Board Meeting**
  - b. **Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**

**MOTION:** Vice President Tami/Mr. Foley moved to approve the consent items.

**VOTE:** 8-0, motion carried.

**19. Adjourn**

The Board adjourned at 5:05 p.m.

**Friday, May 9, 2008**

**Board Members Present:** Richard Lyons, President; Patrick Tami, Vice President; Arthur Duffy; James Foley; Mike Modugno; Jerry Silva; and Michael Trujillo.

**Board Members Absent:** Kim Blackseth; Gregg Brandow; Robert Jones; and Mr. Satorre.

**Board Staff Present:** Cindi Christenson (Executive Officer); Nancy Eissler (Enforcement Program Manager); Cindy Fernandez (Executive Analyst); Mike Donelson (Sr. Staff Engineer); Debbie Thompson (Budget Analyst); and Gary Duke (Legal Counsel).

**1. Roll Call to Establish a Quorum**

The meeting was called to order by President Lyons at 9:00 a.m. Roll call was taken, and there was a quorum.

**2. Public Comment**

There was no public comment.

**7. Comity and Temporary Authorization Applications (Possible Action)**

**MOTION:** Mr. Foley/Mr. Duffy moved to approve the Temporary Civil Authorization for Timothy Czarnik.

**VOTE:** 7-0, motion carried.

**19. Adjourn**

The Board adjourned at 10:00 a.m.

**PUBLIC PRESENT**

N.C Immel, J.M.Turner Engineering

Bob DeWitt, CELSOC

William Hofferber, CLSA

Craig Copelan, PECG

Aaron Smith, CLSA